Lucerne University of Applied Sciences and Arts Agreement

of 15 September 2011* (effective from 1 January 2013)

(This document is translated from and hence based on the Zentralschweizer Fachhochschul-Vereinbarung. In cases of disagreement as to the interpretation and application of any of the provisions, the German source text shall be authoritative.)

A. General

Art. 1 Purpose

¹ The cantons of Lucerne, Uri, Schwyz, Obwalden, Nidwalden and Zug, hereinafter referred to as the sponsoring cantons, jointly manage the Lucerne University of Applied Sciences and Arts as defined by the Federal law.

² With this Agreement, the sponsoring cantons define the management and financial structures of the Lucerne University of Applied Sciences and Arts with the objective of establishing a needs-focused, practical programme of applied sciences and arts studies in Central Switzerland.

³ The Agreement also governs the joint promotion of research and development and the transfer of knowledge.

^{*} K 2012 1937 and G 2012 293. The Intercantonal Council of the University of Applied Sciences and Arts of Central Switzerland (FHZ) approved the Agreement for ratification by the cantons on 15 September 2011. The Lucerne Cantonal Parliament approved the accession of the canton of Lucerne to this Agreement by decree (K 2012 1936) on 18 June 2012. The deadline for requesting a referendum expired unused on 22 August 2012 (K 2012 2622). After Zug as the last canton acceded to the Agreement on 30 August 2012, the Intercantonal Council of the Concordat on the Lucerne University of Applied Sciences and Arts and Arts on 19 September 2012 approved the entry into force of the new Agreement on 1 January 2013 (cf. Art. 42 para. 1 of the Agreement). With this enactment, the Concordat of the Lucerne University of Applied Sciences and Arts and Arts of 2 July 1999 was repealed (Art. 42 para. 3).

Art. 2 Legal status, name and registered office

- ¹ The Lucerne University of Applied Sciences and Arts is an intercantonal public institution established by the sponsoring cantons with its own legal identity and the right to self-governance as defined by this Agreement and its mandate.
- ² The name of the Lucerne University of Applied Sciences and Arts is determined by the Ordinance on Universities of Applied Sciences.
- ³ The Lucerne University of Applied Sciences and Arts is domiciled in Lucerne.

Art. 3 Duties

- ¹ The core tasks of the Lucerne University of Applied Sciences and Arts are teaching and research.
- ² The Lucerne University of Applied Sciences and Arts also offers continuing and executive education and services.

Art. 4 Interaction

- ¹ The Lucerne University of Applied Sciences and Arts collaborates with other education and research institutions in Switzerland and abroad. It coordinates courses, research projects and services with other educational and research institutions at a university-level.
- ² It can in particular manage institutions jointly with other university-level institutions, offer joint course-related events, carry out joint research and development projects, and jointly use the infrastructure facilities.
- ³ It promotes the exchange of students, lecturers and researchers in Switzerland and abroad as well as the mutual recognition of prior learning requirements and degrees.

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Art. 5 Promotion of research and development as well as knowledge transfer

- ¹ As part of its mandate, the Lucerne University of Applied Sciences and Arts promotes
- a. research and development,
- b. the exchange of knowledge, skills and technology with the business sector and society.
- ² To this end it may acquire a stake in other institutions or companies.
- ³ The Inter-cantonal Council may enter into contractual agreements with institutions or companies with regional importance. These contractual agreements must also define the sharing of financial responsibilities and reporting requirements. Such contractual agreements have to be unanimously approved by the Inter-cantonal Council.

Art. 6 Freedom of teaching and research

In carrying out its activities, the Lucerne University of Applied Sciences and Arts safeguards its independence and its freedom in terms of teaching and research.

Art. 7 Contractual obligation

- ¹ The sponsoring cantons grant the Lucerne University of Applied Sciences and Arts a long-term mandate.
- ² Under the mandate the Lucerne University of Applied Sciences and Arts can also be assigned teaching tasks at other educational levels, provided that these have regional relevance and are linked in terms of content to the courses offered by the Lucerne University of Applied Sciences and Arts.

B. Bachelor's and master's degree programmes and continuing and executive education

Art. 8 Principle

Admission to a course of study at the Lucerne University of Applied Sciences and Arts as well as the form this study takes and the scope of study, learning requirements, degrees and titles are governed by the provisions of the Federal law and the Intercantonal Agreement on the Recognition of Diplomas¹.

Art. 9 Restrictions to admission

- ¹ On the request of the Governing Council, the Intercantonal Council can enact limited admission restrictions. It may
- a. restrict admission to bachelor's and master's degree programmes if the demand for places exceeds supply,
- b. restrict the admission of foreign students who stay in Switzerland for study purposes.
- Restrictions can apply with regard to the following in particular:
- a. selection criteria,
- b. duration of periods of practical activity,
- c. waiting lists,
- d. referral to other universities of applied sciences for registration under agreements with other financing authorities.
- ³ Restrictions may be applied individually or cumulatively.

Art. 10 Tuition fees

Students have to pay tuition fees to the Lucerne University of Applied Sciences and Arts.

² On the request of the Governing Council, the Intercantonal Council enacts regulations governing fees. The fees are in line with the fees levied by comparable universities in Switzerland.

¹ SRL No. 401m

³ In justified cases, higher tuition fees can be charged for foreign students who are domiciled abroad or who moved their domicile to Switzerland less than two years before commencing their studies.

C. Members of the Lucerne University of Applied Sciences and Arts

Art. 11 Members

- ¹ The personnel and students constitute the membership of the Lucerne University of Applied Sciences and Arts.
- ² They are entitled to proportionate information and the right to take part in decisions.
- ³ The Governing Council regulates the appropriate level of the right to take part in decisions of personnel and students by means of the Statutes

Art. 12 *Gender equality*

- ¹ The Lucerne University of Applied Sciences and Arts promotes equal opportunities for men and women.
- ² It supports measures that help staff and students to combine their studies with a career and a family.

Art. 13 Personnel regulations

- ¹ Personnel are subject to the personnel regulations of the canton of Lucerne.
- ² At the request of the Governing Council, the Intercantonal Council can enact specific provisions regarding the employment law. In addition, the Intercantonal Council can deviate from or supplement established cantonal employment law (as mentioned in para 1) and

⁴ The fees charged for post-graduate programmes and continuing and executive education courses must cover the outlay costs. The Intercantonal Council has to approve any exceptions.

enact particular provisions related to employment law by way of selfdetermined employment regulations in order to take into account particular circumstances.

Art. 14 Rights and obligations of students

¹ The Governing Council adopts the provisions that regulate the rights and obligations of the students, the disciplinary measures and the relevant division of responsibilities.

² In cases of serious disciplinary offences students can be punished by exclusion from studies at the Lucerne University of Applied Sciences and Arts

D. Jurisdiction of cantonal authorities

Art. 15 *Parliaments of the sponsoring cantons*

The parliaments of the sponsoring cantons are entrusted with the general supervision of the Lucerne University of Applied Sciences and Arts. They

- a. take note of the long-term mandate,
- b. take note of the report on the long-term mandate,
- c. elect their representatives to the Interparliamentary Commission for the Lucerne University of Applied Sciences and Arts.

Art. 16 Interparliamentary Commission for the Lucerne University of Applied Sciences and Arts.

- ¹ The parliaments of the sponsoring cantons each delegate two of their members to serve on the Interparliamentary Commission for the University of Applied Sciences (IFHK) for the applicable term of office as defined by cantonal law. Every Commission member has one vote.
- ² The IFHK constitutes itself. It adopts rules of procedure that specifically govern its elections and organisational structures.
- ³ The IFHK serves as the body of the joint supervisory parliaments. It
- a. monitors the performance of this Agreement and reports to the parliaments,

b. formulates its position regarding the multi-year contractual obligation,

- c. takes note of the report on the multi-year contractual obligation, the annual report and the auditors' report,
- d. is kept adequately informed by the Intercantonal Council and the governing bodies of the Lucerne University of Applied Sciences and Arts,
- e. may inspect the documents of the Lucerne University of Applied Sciences and Arts and request information from its governing bodies,
- f. may submit requests for amendments to this Agreement to the Intercantonal Council.
- g. may request the parliaments to instigate special legal supervisory measures.
- h. may issue instructions to the auditors.

Art. 17 Governments of the sponsoring cantons

- ¹ The governments of the sponsoring cantons
- a. elect their representatives to the Intercantonal Council,
- b. approve the long-term mandate,
- c. approve the report on the long-term mandate.
- ²A directive pursuant to para. 1b is passed only if it is approved by all governments.

Art. 18 Intercantonal Council

- ¹ The Intercantonal Council represents the interests of the sponsoring bodies vis-à-vis the governing bodies of the Lucerne University of Applied Sciences and Arts and supervises the Lucerne University of Applied Sciences and Arts.
- ² It consists of one government member of each sponsoring canton. The representative of the government of the canton of Lucerne acts as the chair. The Intercantonal Council organises itself.
- ³ The individual governments of the sponsoring cantons are responsible for electing the members of the Intercantonal Council and their deputies and for defining their mandates.

Art. 19 Responsibilities of the Intercantonal Council

- ¹ The Intercantonal Council
- a. prepares the matters that have to be decided by the governments and submits the relevant formal requests.
- b. regulates the performance of the Agreement in the Ordinance on Universities of Applied Sciences and also in the employment law, if necessary,
- c. adopts the strategic principles of the development and financial plan that guide the Governing Council,
- d. approves the development and financial plan as well as the infrastructure and investment planning on behalf of the federal government,
- e. determines the regular financial contributions of the sponsoring cantons pursuant to Art. 28 <u>as</u> well as the exceptional contributions pursuant to Art. 30 para. 3 and approves the annual budget,
- f. adopts restrictions to admission pursuant to Art. 9,
- g. elects the Chair of the Governing Council,
- h. elects the other members of the Governing Council,
- i. determines the remuneration of the Governing Council,
- j. appoints suitably qualified auditors,
- k. approves the annual report and annual financial statements,
- 1. adopts the report on the multi-year contractual obligation on behalf of the sponsoring cantons,
- m. handles all other tasks assigned to it under this Agreement.
- ² Resolutions pursuant to para. 1b–f must be adopted unanimously. All other resolutions are passed with a simple majority of the votes of all members.

E. Governing bodies of the Lucerne University of Applied Sciences and Arts

Art. 20 Governing bodies

- ¹ The governing bodies of the Lucerne University of Applied Sciences and Arts are
- a. the Governing Council,

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- b. the Executive Board.
- c. the auditors.

Art. 21 Governing Council

- ¹ In compliance with the rules of the Intercantonal Council, the Governing Council is responsible for the strategic management of the Lucerne University of Applied Sciences and Arts.
- ² It has five to nine members, all of whom are prominent public figures from the community, teaching and research, business, and culture. The members are elected for one term of office equalling the duration of the long-term mandate.
- ³ The Intercantonal Council may at any time dismiss the Governing Council or any of its members for good cause.

Art. 22 Responsibilities of the Governing Council

The Governing Council

- a. has to ensure that the multi-year contractual obligation is fulfilled,
- b. monitors the quality of the services provided by the Lucerne University of Applied Sciences and Arts,
- c. adopts the Statutes that govern the organisational structure of the Lucerne University of Applied Sciences and Arts and the remit of the Executive Board,
- d. submits formal requests to the Intercantonal Council to enact particular provisions related to employment law,
- e. elects the members of the Executive Board,
- f. submits formal requests to the Intercantonal Council to approve the development and financial plan, the long-term mandate and the annual financial contributions pursuant to Art. 28,
- g. approves the annual budget on behalf of the Intercantonal Council,
- h. approves the annual report and annual financial statements on behalf of the Intercantonal Council.
- i. formulates a response to the auditors' report on behalf of the Intercantonal Council,

² The Statutes may make provision for additional governing bodies.

j. approves the report on the long-term mandate on behalf of the Intercantonal Council,

- k. adopts the necessary regulations,
- 1. executes all other tasks assigned to it under this Agreement or by its executive power.

Art. 23 Executive Board

- ¹ The Executive Board is responsible for the operational management of the Lucerne University of Applied Sciences and Arts. It helps to define and implement the strategy.
- ² The organisational structure and remit of the Executive Board are governed by the Statutes.

Art. 24 Auditors

- ¹ The auditors audit the annual financial statements of the Lucerne University of Applied Sciences and Arts every year.
- ² They prepare a report for the Intercantonal Council and submit a formal request to approve or reject the annual financial statements.

F. Governance and financing

Art. 25 Governance

- ¹ The sponsoring cantons provide guidance to the Lucerne University of Applied Sciences and Arts by way of the long-term mandate. The mandate is based on the development and finance plan.
- ² The mandate in particular determines:
- a. the development priorities,
- b. the performance and financial targets of the Lucerne University of Applied Sciences and Arts,
- c. the budgeted financial contributions by the sponsoring cantons,
- d. the reporting requirements.

³ The mandate is usually valid for a period of four years.

Art. 26 Financial and accounting principles

- ¹ The Lucerne University of Applied Sciences and Arts is managed in accordance with generally accepted business principles that comply with the guidelines of the Federal government. The systems required for this are in place, such as financial accounting, cost and performance accounting and a rolling financial plan.
- ² The Intercantonal Council determines the accounting standards in the Ordinance on Universities of Applied Sciences.
- ³ The costs and expenses related to service offers that are financed by a single sponsoring canton only must be reported separately.

Art. 27 Financing

- ¹ The Lucerne University of Applied Sciences and Arts finances its outlay with:
- a. contributions by the sponsoring cantons,
- b. contributions by the Federal government,
- c. contributions by non-sponsoring cantons for their own students,
- d. tuition fees paid by the students,
- e. payment for services rendered to third parties,
- f. other third-party resources.

Art. 28 Annual funding decision

- ¹ Based on the mandate and the rolling financial plan, the Intercantonal Council determines the financial contributions of the sponsoring cantons every year.
- ² It may adjust the contributions by the sponsoring cantons according to the changed framework conditions, provided that the adjustment does not jeopardise the achievement of the performance targets defined in the multi-year contractual obligation.
- ³ If the Intercantonal Council does not take a new funding decision

⁴ The development and financial plan follows the guidelines of the federal government.

² The fees charged for services should cover the outlay costs.

for the next year, the cantons, which are party to the Agreement, have to pay the same financial contributions as under the previous funding decision.

Art. 29 Financial contributions by the sponsoring cantons

- ¹ The financial contributions by the sponsoring cantons comprise:
- a. contributions per student from the sponsoring cantons that are also due under intercantonal law for students from non-sponsoring cantons,
- b. global contributions to the operating costs,
- c. financial contributions for buildings and infrastructure,
- d. basic contributions for applied research and development,
- e. reimbursements for locational advantages by the cantons where the Lucerne University of Applied Sciences and Arts has facilities,
- f. fixed amount to finance the expenses of the Intercantonal Council and the Interparliamentary Commission for the Lucerne University of Applied Sciences and Arts.
- 2 The reimbursement for locational advantages pursuant to para. 1e is deducted from the total contributions pursuant to para. 1b d. The remaining contributions are divided among the sponsoring cantons on the basis of the average number of students in the penultimate calendar year.
- ³ The financial contribution for buildings and infrastructure must be calculated to cover the ongoing costs for buildings and infrastructure, including depreciation and interest.
- ⁴ The reimbursement for locational advantages pursuant to para. 1e equals 6% of the sales that were budgeted for an institution of the Lucerne University of Applied Sciences and Arts located in the relevant canton.
- ⁵ The fixed amount pursuant to para. 1f is borne in equal parts by the sponsoring cantons.
- ⁶ The costs of courses that are offered on instructions of an individual sponsoring canton must be financed in full by the relevant canton.
- ⁷ Further details on the funding of the Lucerne University of Applied Sciences and Arts are set out in the Ordinance on Universities of Applied Sciences and Arts.

Art. 30 Financial responsibility

¹ Every year, the Governing Council adopts the budget based on the multi-year contractual obligation for the University of Applied Sciences and Arts. The budget must be approved by the Intercantonal Council.

- ² The Lucerne University of Applied Sciences and Arts may raise appropriated reserves for projects that have not been finalised by the end of the year.
- ³ The Lucerne University of Applied Sciences and Arts may enter into commitments that go beyond the term of the long-term mandate, provided that no increase in the financial contributions of the sponsoring cantons is required. If it should require additional funds, the Governing Council must submit a request for special contributions to the Intercantonal Council

Art. 31 Equity

- ¹ The equity consists of a legal reserve and a free reserve.
- ² The legal reserve may only be used to cover operational losses or finance measures to ensure the continuation of the Lucerne University of Applied Sciences and Arts when business is bad. The Intercantonal Council decides on withdrawals.
- ³ The Ordinance on Universities of Applied Sciences governs the financial responsibility for the use of the free reserve.
- ⁴ The Ordinance on Universities of Applied Sciences governs reimbursement to the sponsoring cantons when a maximum amount which is to be determined is exceeded.

Art. 32 Appropriation of profits

- ¹ Forty percent of the annual profit is allocated to the legal reserve until the reserve equals 50 percent of the maximum permitted equity.
- ² The remaining income surplus is allocated to the free reserve until the maximum equity is reached. Any surpluses thereafter are repaid to the cantons.

Art. 33 Physical infrastructure

¹ For its activities, the Lucerne University of Applied Sciences and Arts uses properties, which are rented at market prices from the local cantons or third parties.

- ² The relevant local canton is responsible for the long-term infrastructure planning. These plans must be aligned with the current development and financial plan of the Lucerne University of Applied Sciences and Arts. The local canton will involve the Lucerne University of Applied Sciences and Arts in this process. The long-term strategic infrastructure plan is submitted to the Governing Council and the Intercantonal Council for approval. The Intercantonal Council ensures alignment with the plans of all the local cantons.
- ³ The Intercantonal Council appoints a commission formed on the basis of equal representation to oversee the buildings and infrastructure. This commission is responsible for the specification and implementation of the long-term plans.
- ⁴ The Executive Board is responsible for the conclusion of rental contracts. The Ordinance identifies the rental contracts for which the unanimous approval of the Intercantonal Council is required.

Art. 34 Tax exemption

The Lucerne University of Applied Sciences and Arts is exempt from all cantonal and municipal taxes of the sponsoring cantons.

Art. 35 Proprietary responsibility

- ¹ The cantons are secondarily responsible for the liabilities of the Lucerne University of Applied Sciences and Arts. They are jointly and severally liable towards third parties, while internally, they are liable proportionally to their share of the funding on the date of establishment of the debt.
- ² The Lucerne University of Applied Sciences and Arts is expected to insure special risks.
- ³ The governing bodies of the Lucerne University of Applied Sciences and Arts and personnel are liable for damage caused to the Lucerne University of Applied Sciences and Arts through the intentional or grossly negligent violation of an obligation.

G. Administration of the Agreement

Art. 36 Implementation

- ¹ The Intercantonal Council is responsible for the implementation of this Agreement.
- ² The law of the canton of domicile applies to all areas that are not governed by this Agreement.
- ³ Resolutions and decisions regarding public claims of the Lucerne University of Applied Sciences and Arts qualify as enforceable judgements as defined by the law on debt collection and bankruptcy.

Art. 37 Protection of titles

- ¹ Students who successfully finish a degree programme at the Lucerne University of Applied Sciences and Arts are entitled to use the title conferred upon then.
- ² A title without any basis in law is withdrawn by the authority that granted it.
- ³ Individuals who use a title protected by this Agreement without being entitled thereto or a title that gives the impression that the bearer has finished a recognised degree programme are punished with imprisonment or a fine. Negligence is punishable. The cantons are responsible for criminal prosecution.

Art. 38 Right of appeal

- ¹ Decisions regarding admission of students as well as bachelor's and master's degree and continuing and executive education courses can be appealed in writing within 20 days. This does not apply to disciplinary decisions.
- ² Administrative complaints may be lodged against disciplinary decisions, decisions on the appeal and other decisions taken by the Governing Bodies of the Lucerne University of Applied Sciences and Arts under this Agreement and its subsequent directives with the Department of Education and Culture of the canton of Lucerne.
- ³ Decisions by this department may be appealed to the administrative

court, unless excluded by the Law on Administrative Court Procedure of the Canton of Lucerne of 3 July 1972².

⁴ The procedure and appeals procedure are governed by the provisions of the Law on Administrative Court Procedure of the Canton of

Art. 39 Settlement of disputes

- ¹ Disputes between the sponsoring cantons regarding the performance of this Agreement should be settled amicably.
- ² In cases where a dispute cannot be settled amicably, the dispute settlement procedure shall be governed by the provisions of the Framework Agreement on Intercantonal Cooperation with Cost Compensation (IRV) of 24 June 2005³

H. Final provisions

Art. 40 Accession

Accession to this Agreement is declared to the Intercantonal Council of the Concordat on the University of Applied Sciences and Arts of Central Switzerland of 2 July 1999 (FHZ Concordat)⁴.

Art. 41 Notice of termination

- ¹ This Agreement can be terminated within a written legal period of notice of three years to the end of any calendar year.
- ² The remaining cantons shall decide on any changes to or the cancellation of this Agreement if this should be requested by one of the remaining cantons, which is party to the Agreement.
- ³ If notice of termination is given, the governments of the sponsoring cantons shall agree the details of the exit from or the cancellation of the Agreement. In doing so, suitable consideration should be given to all existing obligations as well as the assets brought in by the cantons.

²₂ SRL No. 40 No further references to this law shall be made.

 $^{^3}$ SRL No. 15 4 SRL No. 520 (G 2000 369). No further references to this statutory ordinance shall be made.

Art. 42. Entry into force of the Agreement

¹ The Intercantonal Council of the FHZ Concordat of 2 July 1999 determines the date on which this Agreement enters into force. The accession of all cantons of Central Switzerland to the Agreement is a condition for its entry into force.⁵

Art. 43 Transitional provisions

¹Upon the entry into force of this Agreement, the Lucerne University of Applied Sciences and Arts takes over the School of Engineering and Architecture, the School of Business and the School of Art and Design from the canton of Lucerne

² The takeover of these Schools pursuant to Article 3 of the FHZ Concordat of 2 July 1999 by the University of Applied Sciences and Arts is contractually agreed between the former sponsors and the Intercantonal Council of the FHZ Concordat of 2 July 1999. The agreements in particular govern the assumption of the rights and obligations of the former sponsors and the acquisition of the assets and liabilities. In order to be valid, the agreements have to be approved unanimously by the Intercantonal Council.

³ With the entry into force of this Agreement, the Lucerne University of Applied Sciences and Arts becomes the legal successor of the Concordat on the University of Applied Sciences and Arts of Central Switzerland of 2 July 1999. It therefore assumes all the contractual rights and obligations of this Concordat as well as all of its assets and liabilities.

⁴ To the extent that and for as long as no new executive powers for this Agreement have been adopted, the previous implementing ordinances of the FHZ Concordat of 2 July 1999 apply, except where they contradict this Agreement.

² The Federal government must be informed when it comes into effect.

³ The FHZ Concordat of 2 July 1999⁶ shall be repealed when this Agreement enters into force.⁷

⁵ After Zug as the last canton acceded to the Agreement on 30 August 2012, the Intercantonal Council of the Concordat on the University of Applied Sciences and Arts of Central Switzerland on 19 September 2012 approved the entry into force of the new Agreement on 1 January 2013.
⁶ G 2000 369 (SRL No. 520)
⁷ The Agreement enters into force on 1 January 2013.